

REMARKS

Claims 1-45 are pending in the present application. Claims 1, 11, 19, 23, 31, 41 and 45 have been amended hereby.

Reconsideration is respectfully requested of the objection to the drawings as allegedly failing to show every feature of the invention specified in the claims. The Office Action states that the operating unit and the data storage unit of claims 8 and 38 are not shown. In response to Applicant's previous arguments, the Office Action states that the data retrieving processor 42, rather than the control unit 33 reads out data from the hard disk array 41 and that the drawings do not show the operating unit and data storage unit of claims 8 and 38.

Applicant respectfully disagrees. One non-limiting example of an operating unit is the keyboard 33a shown in Figure 3 and described at page 22 of the present application, and one non-limiting example of a data storage unit is the hard disk array 41 shown in Figure 3 and described at least at page 23 of the present application. A user may enter primary information using the keyboard 33a and the control unit 33 generates indicator data based on the primary information. The indicator information may then be sent via modem 14 to the data retrieving processor 42 which retrieves data specified by the indicator data. The retrieved data is then sent via modem 14 to the controller 33. In this manner the control unit 33 reads data out of the data storage unit.

Accordingly, it is respectfully submitted that the drawings show every feature of the invention specified in the claims.

Reconsideration is respectfully requested of the rejection of claims 11-22 and 31-40 under 35 U.S.C. 112, second paragraph, as allegedly containing subject matter which was not described in such a way as to reasonably convey to one skilled in the art that the inventor at the time of the application was filed, had possession of the claimed invention.

The Office Action states that the specification, as originally filed does not provide support for the invention as now claimed. The Office Action further states that the specification fails to provide support for "the amount of payment for a user is determined according to the date indicative of user identification" in lines 16-18 of claim 11. The Office Action states that the specification does not support similar language in claims 19 and 31.

In the claimed invention, the amount of payment due is determined based on the data indicative of the speed of recording and the specific user to be imposed with payment is determined based on the user identification. This feature is described in pages 12-14 of the present disclosure, for example. Claims 1, 11, 19, 23, 31 and 41 have been amended herein in order to clarify this feature.

Accordingly, it is respectfully submitted that the specification as originally filed provides sufficient support

for claims 11-22 and 31-40.

Reconsideration is respectfully requested of the rejection of claims 11-18 under 35 U.S.C. 112, second paragraph, as allegedly indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

In the claimed invention, the amount of payment due is determined based on the data indicative of the speed for recording. The amount of payment due from any specific user is determined based on the user identification. That is, generally, an amount of payment is determined based on the speed of recording while an amount of payment imposed on a specific user is determined based on the user identification. Claim 11 has been amended to further clarify this feature.

Accordingly, it is respectfully submitted that claim 11, as amended herein, particularly points out and distinctly claims the subject matter which applicant regards as the invention.

Reconsideration is respectfully requested of the rejection of claims 1-10, 19-22 and 31-40 under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent 5,481,411 to Nakatani and European Patent Application EP 0 309 298 to Ball et al.

Nakatani, as understood by Applicant, relates to a high speed dubbing device for producing magnetic tape such as video, audio or computer soft tapes. The dubbing device includes master tape playback devices for synchronously

playing back 2 divided master signals obtained by time-divisionally dividing an original master signal having an original data sequence. A double speed recording signal is produced by a double speed recording signal producing device for time compressing the 2 divided master signals to $\frac{1}{2}$ to obtain a double speed recording signal while restoring the original data sequence in the double speed recording signal. A recording device records the double speed recording signal on a slave tape running at a speed twice the nominal playback speed of the slave tape. See Nakatani, Abstract.

Ball et al., as understood by Applicant, relates to a system allowing a customer to select various randomly accessed musical pieces to be copied at a rapid speed onto a tape for immediate purchase and that automatically forwards appropriate royalty payments to the artist involved. The available selections are stored and edited on a video tape using an audio to video digital converter and are transferred to video disk to form a library. Sections are retrieved for duplication onto cassette tape using a video to audio digital converter. Details of each use of the apparatus are coded onto the medium receiving the copied selections. See Ball et al., Abstract.

A feature of the claimed invention is that a control unit generates data for imposing payment for recording data, which is referred to as basic data, from a first recording medium onto a second recording medium, from data indicating a user identity and data indicating a speed of the recording. A

payment imposing device receives the basic data for imposing payment from the control unit, determines an amount of payment according to the speed of recording and determines a specific user to be imposed with the payment based on the data identifying the user. When data indicating the proper completion of imposing payment which verifies an electronic transfer of funds from an account of a specific user, for example, a bank account, is received by the controller, a record/playback unit starts recording the data from the first recording medium onto the second recording medium. Thus, a recording is made only after payment is imposed and received from the specific user. In this manner, copies of the first recording medium can be made, while at the same time ensuring payment of royalty fees to artists. See subject application, page 11, line 3 to page 12, line 3.

Ball et al. discloses royalty coding and accounting means and maintaining records of the copies made by a recording apparatus. Records are maintained for auditing and payment of royalties by the owner or licensee of the apparatus. Ball et al. also provides features for assisting in the prevention of illegal copying. Information relevant to the payment of royalties is encoded onto video frames of coded audio information, including, for example, the title, name of composer, lyricist, recording company and related copyright information of the recording and directives as to royalties are encoded on the video frame along with the audio information. Information regarding the identity of the

machine, date, time and the customer maybe encoded periodically to the dispensable tape. The royalty information and identifying information may also be printed and retained as a hard copy. See Ball et al., page 3, lines 5-25.

Ball et al., however, fails to show or suggest a record/playback apparatus or method wherein a record/playback unit is directed to start recording of data read out from a first recording medium onto a second recording medium in response to data indicating proper completion of imposing payment which verifies an electronic transfer of funds from an account of a specific user. This feature is substantially recited in each of the independent claims 1, 11, 19, 23, 31, 41 and 45 of the present application.

The Office Action alleges that it would have been obvious to modify Nakatani to adopt the royalty encoding and accounting means of Ball et al. to ensure calculation and making of appropriate royalty payments. Applicant respectfully disagrees.

The apparatus of Ball et al. keeps records regarding copying of data and records copyright data and identification data on recordings made by the apparatus so that unauthorized copies can be tracked. While Ball et al. may allow for direct payment of royalties by including a credit card reader which allows online credit card verification and instant identification information, Ball et al. fails to show or suggest starting recording in response to data indicative of proper completion of imposing payment which verifies an

electronic transfer of funds from an account of a specific user. (Page 3, lines 31-35) Further, while Ball et al. may disclose use of a coin or bill payment method, Ball et al. fails to show or suggest starting recording only after data indicative of proper completion of imposing payment is received which verifies an electronic transfer of funds from an account of a specific user is received. Payment by coins or bills may ensure payment of royalty fees. However, it is inconvenient for users to carry and insert coins or bills. The present application provides a convenient payment method in the form of an electronic transfer of funds while providing assurance that payment has been actually made by the specific user.

Furthermore, there is no need to provide for information to track illegal copies of data where no copy is made, unless proper payment is imposed. Ball et al., thus, teaches away from including a feature of copying data from a first recording device onto a second recording device in response to information indicating proper completion of imposing payment which verifies an electronic transfer of funds from an account of a specific user.

In addition, Ball et al. fails to show or suggest a recording apparatus including a payment imposing device which determines an amount of payment according to the speed for recording data. Ball et al. discloses recording various royalty information including the title, name of composer, lyricist, recording company and related copyright information

of a recording. However, Ball et al. fails to show or suggest determining a payment amount according to a speed for recording.

While the Office Action alleges that it would be common sense to employ the speed of recording to determine a payment amount, there is no teaching or suggestion in Ball et al. or in the art as a whole to make such a combination. Ball et al. suggests providing various recording speeds. However, Ball et al. does not suggest varying payment based on speed of recording. In Ball et al., the same steps for protecting copyright are performed regardless of the speed for recording.

The Office Action alleges that it is common practice in the business world to charge different rates for services based on various speeds such as an additional charge for speed dialing in a telephone system and additional charges for express service in transportation, photo developing and package delivery. The Office Action does not cite, however, any references in the present art (i.e. the data recording business) which shows or suggests determining an amount of payment based on speed of recording. As noted above, Ball et al., discloses allowing recording at different speeds and yet does not provide any suggestion to base the charge for recording on the speed for recording. Therefore, it is respectfully submitted that since there is no teaching or suggestion in either the cited art, or in the data recording art as a whole, to determine an amount of payment based on the speed of recording has been shown, it would not have been

obvious to include such a feature in Nakatani and/or Ball et al.

Accordingly, it is respectfully submitted that claims 1, 19 and 31, and the claims depending therefrom, are patentable over the cited art for at least the reasons identified above.

Reconsideration is respectfully requested of the rejection of claims 11-18, 23-30 and 41-45 under 35 U.S.C. 103(a) as being unpatentable over Ball et al.

Independent claims 11, 23, and 41 relate to record/playback methods substantially utilized by the record/playback apparatuses of claims 1, 19 and 31 respectively. Claim 45 relates to a dubbing apparatus substantially similar to the record/playback apparatuses of claims 1, 19 and 31.

The Office Action acknowledges that Ball et al. fails to disclose use of data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium to generate the basic data. The Office Action alleges, however, that it is well known in the art to employ any relevant data to impose payment to increase profit in business and that it would have been common sense to employ data indicative of a speed for recording to generate basic data. Applicant respectfully disagrees.

As noted above, Ball et al. fails to show or suggest determining a payment amount according to the speed for recording data from a first recording medium onto a second recording medium. Various royalty data are recorded onto the

recording medium to aid in ensuring payment of royalties in Ball et al. However, Ball et al. fails to show or suggest determining a payment amount according to the speed for recording. As noted above there is no teaching or suggestion in Ball et al. or in the cited art as a whole to include such a feature.

Further, as noted above, Ball et al. fails to show or suggest directing an apparatus to start recording data from a first recording medium onto a second recording medium after receiving data indicative of proper completion of imposing payment which verifies an electronic transfer of funds from an account of a specific user. While Ball et al. may allow for direct payment of royalties by including a credit card reader and a coin and bill payment method, Ball et al. fails to show or suggest starting recording in response to data indicating proper payment which verifies an electronic transfer of funds from an account of a specific user. In fact, Ball et al. teaches away from such a feature as described above.

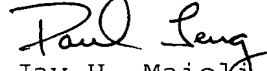
Accordingly, it is respectfully submitted that claims 11, 23 and 41 and 45 and the claims depending therefrom, are patentable over the cited art for at least the reasons identified above.

In light of the remarks and amendments herein it is respectfully submitted that claims 1-45 are patentable over the cited art for at least the reasons mentioned above.

Favorable reconsideration is respectfully requested.

6715/57089

Respectfully submitted,
COOPER & DUNHAM LLP

A handwritten signature in black ink, appearing to read "Paul Teng". The signature is written in a cursive, flowing style.

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MARKED COPY OF THE CLAIMS INDICATING THE CHANGES MADEIn The Claims

Claims 1, 11, 19, 23, 31, 41 and 45 have been amended as follows.

--1. (Amended Four Times) A record/playback apparatus comprising:

a record/playback unit for reading out data from a first recording medium and recording the data onto a second recording medium;

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium and transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, directing the record/playback unit in response to the received data indicative of the proper completion of imposing payment to start the recording of the data read out from the first recording medium onto the second recording medium; and

a payment imposing unit for determining, when receiving the basic data from the control unit, an amount of payment according to the speed for recording the data read out from the first recording medium onto the second recording medium and a specific user to be imposed with the payment according

to the data indicative of the user identification for imposing the determined amount of payment for [a] the specific user [specified by the user identification] and for transmitting to the control unit the data indicative of proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user.

--11. (Amended Four Times) A record/playback method of reading out data from a first recording medium and recording the data onto a second recording medium with the use of an apparatus capable of reading out the data from the first recording medium and recording the data onto the second recording medium, the method comprising the steps of:

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

imposing payment according to the basic data received, with an amount of payment determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and [where an amount of payment for] a specific user to be imposed with the payment is determined according to the data indicative of user identification and for generating data indicative of proper completion of imposing payment thereby verifying an electronic

transfer of funds from an account of the specific user in the payment imposing unit;

transmitting the data indicative of the proper completion of imposing payment from the payment imposing unit to the apparatus; and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--19. (Amended Four Times) A record/playback apparatus comprising:

a record/playback unit for reading out data from a first recording medium and recording the data onto a second recording medium; and

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium and transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, with an amount of payment determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and [the amount of payment for] a specific user to be imposed with the payment is determined according to the data indicating user identification, for directing the record/playback unit in

response to the received data indicative of the proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user to start the recording of the data read out from the first recording medium onto the second recording medium.

--23. (Amended Four Times) A record/playback method comprising the steps of:

reading out corresponding data from a data storage unit where a plurality of data is stored and recording the data onto a [second] first recording medium in response to indicator data received from an operating unit in an apparatus for reading out data from a first recording medium and recording the data onto a second recording medium;

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

imposing payment according to the basic data received, wherein an amount of payment is determined by the speed for recording the data read out from the first recording medium onto the second recording medium [with the amount of payment imposed on] and a specific user to be imposed with the payment is determined according to the data indicative of user identification and generating data indicative of

proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user in the payment imposing unit;

transmitting the data indicative of the proper completion of imposing payment from the payment imposing unit to the apparatus; and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--31. (Amended Four Times) A record/playback apparatus comprising:

a first unit for reading out data from a first recording medium;

a second unit for recording the data onto a second recording medium;

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first unit onto the second recording medium in the second unit, transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, directing the first and second units in response to the received data to start the recording of the data read out from the first unit onto the second recording medium in the second unit; and

a payment imposing unit for receiving the basic data from the control unit, for imposing payment according to the basic data received, wherein an amount of payment is determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and [the amount of payment imposed for] a specific user to be imposed with the payment is determined according to the information indicative of user identification and for transmitting the data indicative of the proper completion of imposing the payment, thereby verifying an electronic transfer of funds from an account of the specific user to the control unit.

--41. (Amended Four Times) A record/playback method of reading out data from a first recording medium and recording the data onto a second recording medium with the use of an apparatus for reading out the data from the first recording medium and recording it into the second recording medium, the method comprising the steps of:

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

canceling imposing payment and generating key data when the data indicative of a speed in the basic data received is

indicative of reading out the data from the first recording medium and recording it into the second recording medium at a predetermined speed;

imposing payment and generating key data when the data indicative of a speed is indicative of reading out the data from the first recording medium and recording it into the second recording medium at a speed faster than the predetermined speed, wherein

an amount of payment is determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and [the amount of payment for] a specific user to be imposed with the payment is determined according to the data indicative of user identification;

transmitting data indicative of proper completion of imposing payment, thereby verifying an electronic transfer of funds from an account of the specific user from the payment imposing unit to the apparatus; and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--45. (Amended Twice) A dubbing apparatus comprising:

dubbing means for reading out data from a first recording medium and writing said read out data onto a second recording medium; and

control means for generating basic data for billing a user, said basic data includes a user identification and a dubbing speed,

wherein after proper completion of billing said user in which an electronic transfer of funds is made from a user account, said control means directs said dubbing means to start reading out data from said first recording medium and writing the read out data onto said second recording medium, with an amount of billing for said user determined based on said dubbing speed and a specific user to be imposed with the billing is determined based on the user identification.--